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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	DOCKET FILE COPY ORIGINAL
	)	
Implementation of Section 302 of	)	
the Telecommunications Act of 1996	)	CS Docket No. 96-46
	)	
Open Video Systems	)	

**REPLY COMMENTS OF CITY OF ANN ARBOR, MICHIGAN**

The City of Ann Arbor, Michigan respectfully submits these reply comments to the Federal Communications Commission ("Commission" or "FCC") in the above-captioned proceeding.

**I. INTRODUCTION**

On March 11, 1996, the Commission released a Notice of Proposed Rulemaking (FCC 96-99) ("Notice"), requesting comment on how it should implement the regulatory framework for open video systems ("OVS"). In response, the National League of Cities, the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the U.S. Conference of Mayors, Montgomery County, and several cities (hereinafter "NLC"), filed joint comments containing specific proposals for implementing that framework

In their comments, NLC identified four key principles that must guide the Commission in formulating its rules. First, the Commission's rules regarding the PEG and other Title VI requirements mandated by Congress for OVS must ensure that OVS operators will meet local community needs and interests. Second, the Commission must adopt nondiscrimination provisions that ensure that all programmers will have truly open and affordable access to OVS and that prevent an OVS from becoming a cable system in disguise. Third, the 1996 Telecommunications Act does not permit cable operators to become OVS operators. Fourth, the Commission's rules must acknowledge the property interests that local governments hold in the local public rights-of-way

The City of Ann Arbor, Michigan strongly supports NLC's comments and urges the Commission to follow these four principles in formulating OVS rules.

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## II. DISCUSSION

The Commission's statutory mandate in adopting PEG requirements for OVS is clear. As NLC notes, the Telecommunications Act of 1996 requires the Commission to establish PEG obligations for OVS that are consistent with local needs and interests, and to impose on an OVS operator obligations equivalent to those obligations imposed on cable operators. To fulfill these mandates, the Commission should, as proposed by NLC, to match each incumbent cable operator's PEG obligations, or to negotiate agreements acceptable to the affected communities.

The record in this proceeding demonstrates that local governments -- as franchising authorities and PEG programmers -- play a critical role in ensuring that local communications needs and interests are met.<sup>(1)</sup> Moreover, local governments, as the National Cable Television Association states, "are in the best position to deliver on the Act's intent to accomplish PEG access over open video systems."<sup>(2)</sup>

(1) See e.g., Comments of the Below-Named Political Subdivisions of the State of Minnesota at 7 (franchising authorities have "considerable experience in successfully negotiating, creating and implementing . . . PEG obligations"); Comments and Petition for Reconsideration of the National Cable Television Association, Inc. At 34 ("The local franchising authority is the governmental entity best positioned to appreciate community needs and most experienced in the implementation of PEG access rules"); and Joint Comments of Cablevision Systems Corporation and the California Cable Television Association at 21 ("Congress certainly understood that PEG access requirements are now imposed by localities to meet critical localism goals").

(2) Comments and Petition for Reconsideration of the National Cable Television Association, Inc. At 33. See also, Comments of MFS Communications Company, Inc. At 27 ("The manner in which OVS operators and/or their customer programmers comply with the PEG obligations should generally be worked out between the programmer and the local government entity that oversees the implementation of these rules for cable operators").

In Ann Arbor, PEG access has existed since 1973, making it one of the oldest such services in the country. In a market not served by local broadcast television stations (private or public), our PEG provider, Community Television Network (CTN), provides critical information creation and distribution services to this community.

From a public policy perspective, it is unconscionable for any federal regulatory scheme to be advanced that would adversely impact a viable, cost-effective, dynamic, community-oriented, and valuable communications tool, namely PEG access and the various organizations which provide these services.

By adopting the NLC's proposal, the Commission will ensure that PEG access continues to serve local communications and content needs and interests in the City of Ann Arbor, and will satisfy the Commission's statutory mandate to impose equivalent obligations on OVS and cable operators.

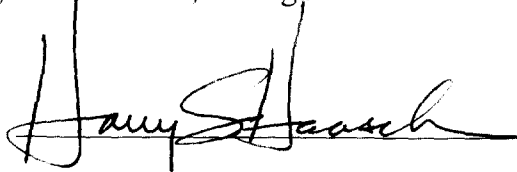
### III. CONCLUSION

The City of Ann Arbor, Michigan respectfully requests the Commission to adopt a framework for OVS consistent with the proposals and principles recommended by the NLC et al in their comments.

Respectfully Submitted,

City of Ann Arbor, Michigan

By:

A handwritten signature in black ink, appearing to read "Harry S. Haasch", written over a horizontal line.

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